

Design Cost Report associated with Deed of Variation for Horsforth St Margaret's C of E PS.

Date: 14 March 2024

Report of: Head of Learning Systems

Report to: Chief Officer Resources & Strategy

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

A new Autism Spectrum Condition Resource Provision (ASC RP) has been created at Horsforth St Margaret's Church of England primary school to manage the need for additional places in the Horsforth Area.

The school falls under the 10 Primaries PFI Project, therefore amendments are required to the PFI Project Agreement (which governs relationship between the City Council and QED (Leeds) Limited to include the new accommodation. These amendments are documented in a Deed of Variation (the "DoV").

The purpose of this report is to seek approval to enter into the amended DoV and to approve the legal costs and increased unitary charge costs incurred as a result of the new building.

Recommendations

The Chief Officer Resources and Strategy is recommended to:

- a) Approve entering into Deed of Variation (DoV) between Leeds City Council and QED (Leeds) Limited (ProjectCo) which varies the PFI Project Agreement (between the same parties) relating to the new modular building delivered to facilitate the creation of an SEN Resource Provision at Horsforth St Margaret's C of E PS
- b) Approve fees of £110,000 to cover all legal and other external costs of ProjectCo, its FM Sub-Contractor and Lenders time that have been incurred and will be funded from the project budget.
- c) Note the annual increase of £19,677 (Indexed) per annum to the Unitary Charge (UC) for the additional Services provided at the new building.

What is this report about?

- 1 The Local Authority's has a duty to ensure a sufficiency of school places, which supports the achievement of the Best Council priority to improve educational attainment and close achievement gaps. The strategic drive to keep pupils in mainstream or with enhanced provision in mainstream school is a key priority for the city. To support this there is an identified need for additional Resource Provision places in mainstream schools, particularly for children and young people with complex communication difficulties which are being identified because of a substantial increase in Education, Health, and Care Plan (EHCP) assessments.

The number of children and young people living in Leeds has increased over the past decade, which has resulted in rising demand for both mainstream places and specialist provision places across the city. The demand for special needs places within mainstream schools continues to grow with increases in complex communication difficulties which are being identified because of a substantial increase in Education, Health, and Care Plan (EHCP) assessments. Demand for new Resource Provision places to be developed in key locations across the city has resulted in these proposals being brought forward at this time.

On 10th February 2021, Executive Board approved the proposal to establish a 12-place Resource Provision at Horsforth St Margaret's C of E PS with effect from September 2021 and granted provisional approval for authority to spend (ATS) £1.1m to deliver the works associated with the ASC RP.

In response to this a 12-place Resource Provision has been developed which will support children with EHCPs to attend local mainstream settings providing both a differentiated curriculum and access to mainstream social and wider curriculum activities. The proposed provision will also benefit other pupils with SEN requirements who will be able to access some of the resources created through the scheme where appropriate. Specialist staff with expertise and skills in ASC will lead the provisions, better providing for pupils sensory and learning needs and enhancing the quality of provision for pupils with Special Educational Needs. The Resource Provision will cater for all primary year groups (ages 5-11) with the learners being on the roll of Horsforth St Margaret's C of E PS.

The works consisted of remodelling and refurbishing an LCC owned modular building through Portakabin UK Ltd. This was the only procurement route available as the building was previously purchased through Portakabin and has been in storage at their factory in York since it was removed from another school site in 2019. As Portakabin has already previously constructed the building and therefore know what materials and specifications it consists of it wouldn't make sense to commission another modular company to carry out the refurbishment works. The following spaces have been delivered created within the building:

- Key Stage 1 base
- Key Stage 2 base
- 2 x breakout spaces
- Sensory room
- Circuits room
- Continuous provision room
- Office
- Kitchenette
- Staff/pupil accessible WC's

Horsforth St Margaret's already has a high proportion of children with SEN at the school who will also benefit from the specialist learning spaces within the ASC RP. Additional places for children with complex communication difficulties/ASC are needed within the Horsforth area.

A design cost report requesting the full authority to spend associated with the build project was approved on 30 July 2021. The Deed of Variation is to facilitate this in light of it being a PFI School.

What impact will this proposal have?

- 2 It will allow Leeds City Council to meet its statutory duty in providing a school place for every child and address the demand for additional places for children with complex communication issues/ASC needed in the Horsforth area.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing Inclusive Growth Zero Carbon

- 3 Providing a high standard of teaching spaces meets the Council's Health and Wellbeing plan by ensuring children feel safe and secure within their day-to-day learning environment and are supported by a family of teachers and staff members. Entering into the amended DoV is the legal process that supports this and the mechanism for obtaining the necessary approvals from ProjectCo.

What consultation and engagement has taken place?

Wards affected: Horsforth.

Have ward members been consulted? Yes. No

- 4 Consultation has taken place with the Head Teacher, Governing Body, ProjectCo, senior officers in Children's & Families and City Development through Programme Risk and Control Group and School Places Programme Board, regarding the creation of an SEN Resource Provision at Horsforth St Margaret's C of E PS. The Executive Member and Ward Members were briefed as part of the Executive Board process which approved the creation of an ASC RP at Horsforth St Margaret's C of E PS.

What are the resource implications?

- 5 Fees of £110,000 to cover all legal and other external costs of ProjectCo, its FM Sub-Contractor and Lenders incurred on the project and an annual increase of £19,677 (Indexed) to the UC to cover additional FM services at the new building.

What are the key risks and how are they being managed?

- 6 If the DoV isn't entered into at the earliest opportunity the risks are:
 - further legal costs will be submitted by ProjectCo which the Council will need to fund. Leeds PFI colleagues are having daily conversations with ProjectCo representatives to resolve any outstanding issues that are preventing the DoV being signed.

- the new building is not insured by ProjectCo (who is responsible for insuring the rest of the site and main school building and will be responsible for insuring the new building once the DoV is signed). At present the new building is insured by the Council under its blanket insurance policy.

The DoV sets out certain obligations on the Council during the installation period. However, as the installation was completed, and the new building has been operational since September 2022 these risks have now largely expired. There is a risk of poor performance in respect of the delivery of services at the new building by the ProjectCo and its FM Sub-contractor (the relevant services being Cleaning and Waste, Health and Safety and Security, Portage, Reactive On-site Service, and Planned and preventative maintenance services. The Council can levy deductions for poor performance but only in respect of Cleaning and Waste. This is an agreed commercial position so that the other services are not “risk-priced”, and performance will still be subject to contract monitoring.

The Council / School is responsible for lifecycle and therefore ultimately the physical condition of the new building throughout the life of the Project and on expiry (2031). This is a commercial agreement. It is considered better VfM for the Council to retain this risk than pay the risk premium associated with passing lifecycle responsibilities to ProjectCo.

What are the legal implications?

- 7 Amendments to the DoV are a legal requirement under the PFI Project Agreement as it needs to reflect the changes that have occurred due to the delivery of the new ASC RP building. The DoV is also required to ensure that the PFI ProjectCo is in a “no better, no worse” position in terms of cost and risk as a result of the new building and related services (this being a contractual requirement of the PFI Project Agreement).

Options, timescales and measuring success.

What other options were considered?

- 8 There were no other solutions that could address the area of need in Horsforth.

How will success be measured?

- 9 Through the successful delivery of the new ASC RP and the completion of the amended DoV.

What is the timetable and who will be responsible for implementation?

- 10 A decision needs to be taken at the earliest opportunity to prevent additional legal fees being incurred. The Head of Learning Systems is responsible for implementation.

Appendices

- EDCI